

REMARKS

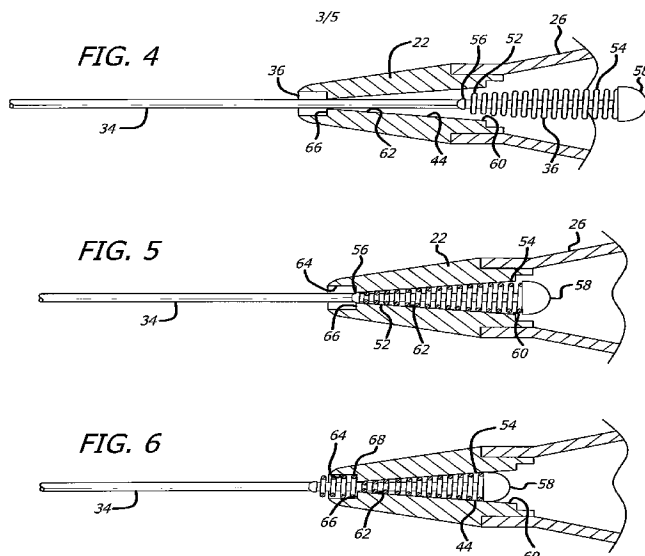
Applicants submit the following Response to the Office Action dated February 27, 2009. Claims 1-37 are pending in this application. Favorable reconsideration of all of the pending claims is requested in view of the remarks below.

Applicants initially object to the finality of the present Office Action. Applicants note that in Applicants' previously filed Amendment dated December 9, 2008, Applicants fully responded to the obviousness rejection of claim 35 by showing that the prior art reference relied upon by the Examiner, namely, U.S. Patent No. 7,331,973 to Gesswein et al. (the "Gesswein patent"), is not valid 35 U.S.C. § 103(a) reference pursuant to 35 U.S.C. § 103(c). The Examiner should have at least allowed claim 35 or should have issued a new rejection in a non-final Office Action.

Claims rejected under 35 U.S.C. § 102(e) as being anticipated

Claims 1-34, 36 and 37 have been rejected under 35 U.S.C. § 102(e) as being anticipated by the Gesswein patent. Applicants again disagree with the Examiner's position regarding the Gesswein patent since components recited in the claims are absent. The components recited in the pending claims create quite a different mechanism than is shown in the Gesswein patent.

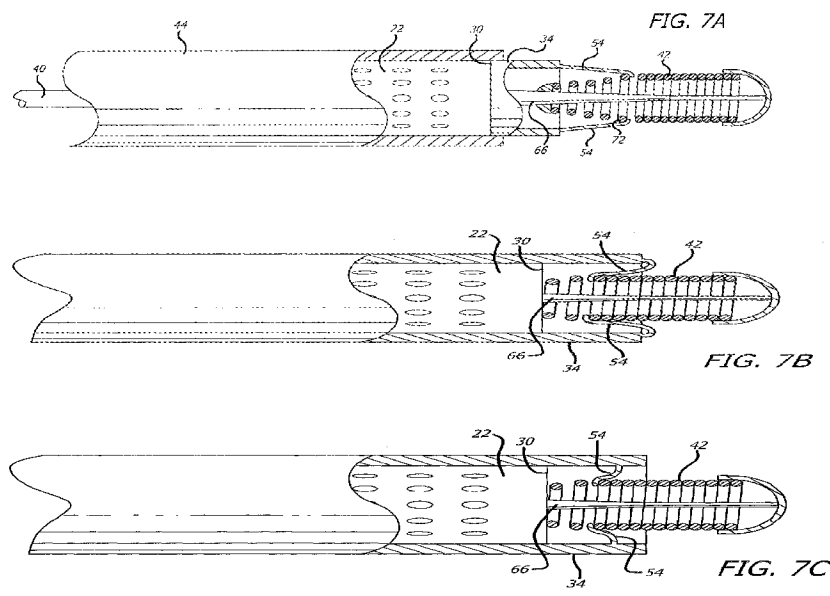
First, it is noted that claims 1-18 and 28-37 require a locking component which includes means for temporarily compressing at least a portion of the flexible body member of the guide wire. Claims 19-27 require the guide wire locking component to include a longitudinal opening extending into the body member adapted to receive and temporarily compress at least a portion of the flexible body member. The sequence for locking the components is shown in FIGS. 4-7 of the application reproduced below.



The claims call for a guide wire 34 having a flexible body member 36 disposed thereon. This flexible body member 36 can be, for example, the distal tip coil of the guide wire. In claims 1-18, the system further includes a locking component 22 having a body member including means for temporarily compressing at least a portion of the flexible body member of the guide wire to allow the compressed portion of the flexible body member to be placed in a recess 64 formed in the body member. In the particular embodiment shown in FIGS 4-6, this means for temporarily compressing the flexible body member 36 is the tapered opening 44 formed in the locking component 22. The compressed portion of the flexible body member 36 is adapted to decompress within the recess 64, as is shown in FIG. 5, to lock the formerly compressed portion of the flexible body member 36 within the recess 64, as is shown in FIG. 6. In claims 19-27, the guide wire locking component recited the use of this longitudinal opening 44 for temporarily compressing at least a portion of the flexible body member to allow the compressed portion of the flexible body member to be placed in a recess formed in the guide wire locking component. In claims 28-30, the flexible body member is rotatably mounted to the guide wire.

The Examiner has correctly identified the helical coil 42 in the Gesswein patent as the flexible body member attached to the guide wire. This locking component 54 in the

Gesswein patent, however, does not include a means for temporarily compressing at least a portion of the coil 42 of the guide wire, as is recited in claims 1-18 and 28-37, or a component which includes a longitudinal opening extending into the body member which is adapted to receive and temporarily compress at least a portion of the flexible body member, as recited in claims 19-27. Rather, the embodiments of the locking component in Figures 7A- 7C in the Gesswein patent show the use of spring-loaded tabs 54 which include a tip adapted to extend into a **gap** formed on the helical coil 42. Applicants believe that compression of the helical coil 42 in the Gesswein patent is not shown. Rather, the spring-loaded tabs merely provide a bias to the coil 42 to maintain the end of the tab 54 within the gap formed between coils. Figures 7A-7C are reproduced below for the ease of the reader.



However, even assuming *arguendo* that the locking component 54 in the Gesswein patent provides some means for compressing the coil 42, all of the claims further require a recess to be formed on the body member of the locking component for receiving the **compressed portion** of the flexible body member. Moreover, the compressed portion of the flexible body member must be adapted to **decompress within the recess** to **lock** the formerly compressed portion of the flexible body member within the recess. The

Gesswein device simply relies on the end of the tab 54 to be received and biased in **a gap formed between the coils of the helical coil 42** for locking purposes. Applicants note that in the Office Action, the Examiner merely states that a recess is formed in the tip of the device as shown in Figs 7b and 7c. The Examiner believes that the tip 34 along with the inwardly projecting locking means 54 forms the recess recited in the claims. However, the claims state that the flexible body member must be adapted to **decompress within the recess to lock** the formerly compressed portion of the flexible body member within the recess. The Examiner states that a portion of the coil 42 passes the locking means 54 and is decompressed after passing, as is shown by the first coil section extending beyond the locking means 54. However, even assuming *arguendo* that these coils 42 have been compressed and decompressed, which Applicants refute, these first coils sections, identified by the Examiner, must define the structure which locks the locking component to the guide wire. This first coil section in the Gesswein patent, which the Examiner identifies as being decompressed, plays no part in the locking mechanism. Rather, it is the end of tab 54 and its placement between coils 42 which locks the Gesswein device in place. Therefore, Applicants submit that there is simply no recess on the Gesswein device which receives a portion of the helical coil 42 and locks the decompressed coils therein. For at least these reasons, the Gesswein patent fails to disclose all of the components recited in the rejected claims. Applicants respectfully request the Examiner to withdraw the Gesswein patent as an anticipatory reference.

Claims rejected under 35 U.S.C. § 103(a) as being obvious

Claim 35 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Gesswein patent. Applicants again note that the Gesswein patent and the present application were, at the time the presently claimed invention was made, each either owned by or subject to an obligation of assignment to Advanced Cardiovascular Systems, Inc. Applicants direct the Examiner's attention to the recorded assignment of the present invention to Advanced Cardiovascular Systems, Inc., which is recorded at Reel/Frame 021842/0688 on November 17, 2008. The Assignment is dated February 26, 2004. The

present application was filed after the November 22, 1999 effective date of change to 35 U.S.C. § 103(c) which disqualifies § 102(e) prior art from consideration under § 103 if the subject matter of the reference and the claimed invention were commonly owned at the time the claimed invention was made. The Gesswein patent was filed on September 30, 2002 and issued on February 19, 2008 after the filing date of the present application. It constitutes a § 102(e) reference. The Gesswein patent has been assigned to Advanced Cardiovascular Systems, Inc as is evidenced on the front page of the Gesswein patent. In view of this statement of common ownership, Applicants respectfully assert that the Gesswein patent is not valid 35 U.S.C. § 103(a) reference and traverse the current rejection. MPEP 706.02(1)(2). Moreover, as Applicants state above with regard to claim 1, the Gesswein patent fails to disclose even the most basic elements recited in claim 1. Applicants respectfully request the Examiner to withdraw the U.S.C. § 103(a) rejection as applied to claim 35.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case. Please charge or credit Deposit Account No. 06-2425 for any additional fees in connection with this Amendment.

Respectfully submitted,

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